Public Order Emergency Commission

Established by P.C.2022-392

On April 25, 2022

Under section 63(1) of the *Emergencies Act*

Affidavit of Michael Richards

LEGAL SERVICES BRANCH
MANITOBA JUSTICE
7th Floor, 405 Broadway
Winnipeg, MB R3C 3L6
Fax: (204) 948-2826
File: JU04A0(48)

Denis Guénette, General Counsel
Ph. 204-945-5183
Coral Lang, Crown Counsel
Ph. 204-945-2849

Public Order Emergency Commission

Established by P.C.2022-392
On April 25, 2022
Under section 63(1) of the *Emergencies Act*

Affidavit of Michael Richards

I, Michael Richards, in the Province of Manitoba, AFFIRM AND SAY THAT:

1. I am the Deputy Cabinet Secretary for Strategic Operations and the Deputy Minister of Intergovernmental Affairs for the Government of Manitoba. As such, I have personal knowledge of the facts and matters hereinafter deposed to by me, except where same are stated to be based on information and belief, in which case I believe them to be true.

2. By letter dated August 3, 2022, The Public Order Emergency Commission (the "Commission") requested that the Government of Manitoba prepare an institutional report that contained, to the fullest extent possible, the Government of Manitoba's evidence before the Commission.

3. The Government of Manitoba has prepared the requested institutional report. A copy is attached as Exhibit **"A"**.

4. I do not have direct personal knowledge of all aspects of the institutional report attached as Exhibit **"A"** to this affidavit, as it was prepared in consultation with other public offiers of the Government of Manitoba, including the Assistant Deputy Minister of Public Safety, Michael Koppang. However, I can confirm that the Government of Manitoba considers the institutional report attached as Exhibit **"A"** to be accurate.

AFFIRMED before me at the City of)
Winnipeg, in the Province of Manitoba)
this 28th day of October, 2022)

Michael Richards

K Barnard

A Commissioner for Oaths in and for
the Province of Manitoba

My Commission expires January 19, 2023.

This is Exhibit "A" referred to in the
Affidavit of Michael Richards
affirmed before me
this 28th day of October, 2022

K Barnard

A Commissioner for Oaths in and for
the Province of Manitoba

My Commission expires January 10, 2023

Public Order Emergency Commission

Established by P.C.2022-392

On April 25, 2022

Under section 63(1) of the *Emergencies Act*

INSTITUTIONAL REPORT
of the
Government of Manitoba

LEGAL SERVICES BRANCH
MANITOBA JUSTICE
7th Floor, 405 Broadway
Winnipeg, MB R3C 3L6
Fax: (204) 948-2826
File: JU04A0(48)

Denis Guénette, General Counsel
Ph. 204-945-5183
Coral Lang, Crown Counsel
Ph. 204-945-2849

Public Order Emergency Commission

Established by P.C.2022-392
On April 25, 2022
Under section 63(1) of the *Emergencies Act*

INSTITUTIONAL REPORT
of the Government of Manitoba

1. The Freedom Convoy reached Ottawa on January 29, 2022. Shortly after, Manitoba saw two areas become focal points for protests. One was in downtown Winnipeg, near the provincial Legislature. The other was at the Emerson border crossing.

A. Provincial Legislature protests (February 4 to 23, 2022)

2. Manitoba's provincial Legislature is located in downtown Winnipeg. At the rear is the Assiniboine River. On either side are Osborne Street (a major traffic artery) and Kennedy Street (a residential street).

3. The property fronts onto Broadway, a major downtown traffic artery. Across on the other side of Broadway is Memorial Boulevard, which is not a major traffic artery.

4. From a policing standpoint, this area falls within the territorial jurisdiction of the Winnipeg Police Service (WPS).

5. On Tuesday, February 1, 2022, WPS became aware of a planned protest involving a truck convoy that was loosely modelled on the protest that was then underway in Ottawa.

6. On the morning of Friday, February 4, 2022, a group of people and vehicles gathered for a protest event in the area of the provincial Legislature.[1] They remained in place for just under three weeks, until Wednesday, February 23, 2022.[2]

7. Trucks, trailers, farm implements and passenger vehicles were parked along Memorial Boulevard and a portion of Broadway during this event. Individuals also attended. Initially, the number of protesters varied between 100 and 300 individuals, but on weekends attendance peaked at about 1000 people. On Saturday, February 12, 2022, about 200 to 300 counter-protesters also attended.[3]

8. On the whole, traffic disruptions were relatively minimal. Protesters generally occupied Memorial Boulevard, without fully blocking Broadway. To the extent they had blocked the intersection of Memorial Boulevard where it crosses York Avenue (which is a major artery) over the initial weekend, traffic flow was re-established in time for the weekday morning commute.[4]

9. The Legislature is in one of the City of Winnipeg's more densely populated areas, and has many residential and office buildings in its vicinity. Excessive noise was being generated by participants, and was a problem that needed to be addressed – especially early on. On Tuesday February 15, 2022, WPS indicated that they had by then received 154 noise complaints. However, none of those had been received after 1:00 pm on Sunday, February 13, 2022.[5]

10. WPS informed Manitoba Justice about this situation through Michael Koppang, Assistant Deputy Minister, Public Safety Division. He would in turn provide updates within Government.

---

1 WPS News Releases, February 3 and 8, 2022. [MAN00000008 and MAN00000009]

2 WPS News Release, February 22, 2022. [MAN00000013]

3 WPS News Release, February 15, 2022. [MAN00000012]

4 WPS News Release, February 15, 2022. [MAN00000012]

5 WPS News Release, February 15, 2022. [MAN00000012]

11. All indications were that WPS were following established policing practices, such as working with de-escalation in mind while also developing contingency plans specific to the situation. At no time was any suggestion made that the existing array of measures available to the WPS to deal with this situation – whether practical, legal or otherwise – were insufficient.

12. Leading up to and throughout this protest, WPS were in regular contact with organizers and maintained a dialogue, seeking to find a peaceful resolution. WPS maintained a full time and continuous presence. Use of force was minimal. Few, if any, tickets were issued. There were no arrests (though there were a small number of temporary detentions made under *The Intoxicated Persons Detention Act*).[6]

13. Eventually, on Wednesday, February 23, 2022, WPS delivered a letter to protest organizers, warning that anyone who remained after 5:00 pm that day risked being arrested and charged under the Criminal Code for mischief or intimidation, under the Manitoba Highway Traffic Act, or under the City's noise by-law. It also warned that vehicles could be seized and subject to a forfeiture application by the Crown, or under the federal Emergencies Act.[7]

14. Over the course of this protest, WPS notified the public by issuing News Releases with regularity **[MAN00000008 through MAN00000013]**:

    a. 2022 February 3 (Thursday): Planned Demonstration: Public Advisory

    b. 2022 February 8 (Tuesday): Statement Regarding Vaccine Mandate Protests

    c. 2022 February 11 (Friday): Statement Regarding Vaccine Mandate Protests

    d. 2022 February 12 (Saturday): Statement Regarding Vaccine Mandate Protests – Update

---

[6] WPS News Releases, February 3, 8, 11, 12 15 and 22, 2022. [MAN00000008 through MAN00000013]

[7] WPS News Releases, February 22, 2022. [MAN00000013]

e. 2022 February 15 (Tuesday): Protest Update

f. 2022 February 22 (Tuesday): Protest Update

B. Emerson Border Crossing Blockade (February 10 to 16, 2022)

15. Provincial Trunk Highway 75 extends south from Winnipeg for about 90 kilometers to Emerson, where it reaches the U.S. Border and the Pembina Border Crossing. On the American side is Interstate Highway 29, in North Dakota.

16. The Pembina-Emerson border crossing is the busiest in Manitoba, and the second-busiest west of the Great Lakes. It is an important port for commercial trucking.

17. The Canadian side of this border crossing was affected by a blockade that was in place for about one week. It began in the early hours of Thursday, February 10, 2022, and was eventually cleared by Wednesday, February 16, 2022.[8]

18. The vehicles involved in this blockade included semi-trailers, farm implements and passenger vehicles near Provincial Roads 200 and 243. The number of vehicles involved fluctuated, but was estimated to be around 50 to 75.[9]

19. From a policing standpoint, this is a matter that fell within the territorial jurisdiction of the Royal Canadian Mounted Police (RCMP) which, under section 18 of The Police Services Act (Manitoba), is under contract to act as the provincial police service. Officers from the Emerson and Morris RCMP detachments were assisted by officers from other RCMP detachments and units throughout the province.

20. The blockade allowed no traffic to flow, except emergency vehicles and some agricultural transports.[10]

---

8 RCMP News Releases, February 11 and 16, 2022. [MAN00000015 and MAN00000018]

9 RCMP News Releases, February 11, 12 and 13, 2022. [MAN00000015, MAN00000014 and MAN00000016]

10 RCMP News Releases, February 11, 12 and 13, 2022. [MAN00000015, MAN00000014, and MAN00000016]

21. This border crossing is not in a heavily populated area. Any excessive noise that may have been generated by participants was not a factor.

22. RCMP informed Manitoba Justice about this situation through Michael Koppang, Assistant Deputy Minister, Public Safety Division. He would in turn provide updates within Government.

23. All indications were that RCMP were following established policing practices, such as working with de-escalation in mind while also developing contingency plans specific to the situation. At no time was any suggestion made that the existing array of measures available to the RCMP to deal with this situation – whether practical, legal or otherwise – were insufficient.

24. Throughout the blockade, RCMP were in regular contact with blockade organizers and maintained a dialogue, seeking to find a peaceful resolution. The RCMP maintained a full time and continuous presence. Use of force was minimal. Few, if any, tickets were issued. There were no arrests.[11]

25. On Wednesday, February 16, 2022, RCMP held a media scrum on the median of Highway 75 at PR 243, indicating that a resolution had been reached the day before. It was anticipated that by Noon that day the remaining demonstrators would begin to move out, and full access to the port of entry would be restored.[12]

26. This blockade affected the Emerson border crossing. It did not impact any of Manitoba's 19 other border crossings with North Dakota, or its 4 border crossings with the Minnesota mainland. In its public notices the RCMP was generally recommending to people that they avoid the Emerson area. In addition, it is Manitoba's understanding that commercial traffic was being re-routed to other crossings during this time, and that hours were extended at two crossings.

---

11 RCMP News Releases, February 11, 12, 13, 15 and 16, 2022. [MAN000000014 through MAN00000018]

12 RCMP Speaking Notes – Media Scrum, February 16, 2022. [MAN00000063]

27. Over the course of this blockade, RCMP notified the public by issuing News Releases almost daily **[MAN00000014 through MAN00000018]**:

a. 2022 February 11 (Friday). Blockade continuing to block border in Emerson

b. 2022 February 12 (Saturday). UPDATE #2 – Emerson border crossing – February 12, 2022

c. 2022 February 13 (Sunday). UPDATE #3 – Emerson border crossing – February 13, 2022

d. 2022 February 15 (Tuesday). UPDATE #4 – Emerson border crossing – February 15, 2022

e. 2022 February 16 (Wednesday). UPDATE #5 – Emerson border crossing now cleared

C. The Province and the Emergencies Act

i) Protests arise

28. On Friday, February 4, 2022, Premier Heather Stefanson issued statement after having attended a virtual meeting with her provincial and territorial counterparts. The statement addressed pressures on the heath care system, including the burdens caused by COVID-19. It is also included the following passage:[13]

> During today's virtual meeting, we also had the opportunity to discuss protests that are taking place in many jurisdictions across our nation. Our government respects the right to a peaceful protest. However, protestors must also respect the rights of others, too.
>
> In Manitoba, we are monitoring the situation very closely around the Manitoba Legislative Building.
>
> Manitoba Justice and Government Services are working collaboratively with the Winnipeg Police Service to ensure this is a peaceful and lawful event. I have been in constant communication with

13 Government of Manitoba News Release, February 4, 2022. [MAN00000002]

> Mayor Bowman, City of Winnipeg and provincial officials to ensure the safety and security of those living, working and moving about the area.
>
> I encourage all Manitobans to be respectful and kind to one another, especially during this difficult time.

29. It is on Friday, February 4, 2022, that the protest at the Legislature began.

30. On Thursday, February 10, 2022, Winnipeg's City Council convened for a Special Meeting, at which it adopted a resolution consisting of 8 points related to the protests at the Legislature. Included among these was the following point:[14]

> 7. That the Mayor utilizing the powers of said office reach out to the Premier to undertake collaboration to find a prompt resolution to the protest currently occurring in the proximity of the Legislative Grounds.

31. Afterward on that same day, Premier Stefanson issued a statement as follows:[15]

> I have reached out to Mayor Brian Bowman following the motion raised at Winnipeg city council today. I welcome the opportunity to meet with the mayor and discuss further the ongoing protests. Maintaining constant communications between levels of government is imperative.
>
> On behalf of all Manitobans, I want to thank both the city and the Winnipeg Police Service for their efforts at managing the ongoing situation. As a provincial government, we do not have jurisdiction, nor would it be appropriate to interfere with civic protests or police operations. However, we remain in regular communication with the mayor and City of Winnipeg officials and share the same goal to ensure the safety and well-being of those working, living and accessing services in the area.
>
> At city council today, both the mayor and the chief administrative officer acknowledged the Winnipeg Police Service is the full authority to lead and deal with this situation.

---

14 City of Winnipeg Council Meeting Records, February 10, 2022. [MAN00000021]

15 Government of Manitoba News Release, February 10, 2022. [MAN00000003 and MAN00000004]

> We have full confidence in the front-line officers of the Winnipeg Police Service to maintain order on Winnipeg streets, as they have been through difficult circumstances throughout these protests.

32. Also on Thursday, February 10, 2022, the blockade at the Emerson border crossing began.

33. The next day, on Friday, February 11, 2022, Premier Stefanson announced that Public Health Order Restrictions would be lessened effective 12:01 a.m. on Tuesday, February 12, 2022, and that plans were underway to remove proof of vaccination requirements beginning on March 1, 2022.[16]

34. In addition, on Friday, February 11, 2022, Premier Stefanson wrote a letter to Prime Minister Trudeau, urging immediate and effective federal action regarding the blockade activity that was then unfolding at the Emerson border crossing. The letter closed by mentioning Canada Border Services Agency, and welcomed discussion on any potential federal-provincial collaborative action that might be of assistance.[17]

ii) Monday, February 14, 2022

35. In the late evening on Sunday, February 13, 2022, Manitoba was notified of an urgent First Ministers Meeting that was scheduled to occur by conference call the next morning. No agenda was provided, and there was no indication of the intended subject matter.[18]

36. On Monday, February 14, 2022, Premier Stefanson attended a First Minister's meeting during which Prime Minister Trudeau advised the federal government was considering invoking the Emergencies Act. During this meeting, Premier Stefanson raised concerns that the proposed measures could inflame the situation, that

---

16 Government of Manitoba News Release, February 11, 2022. [MAN00000005]

17 Letter from Premier Stefanson to Prime Minister Trudeau, February 11, 2022. [MAN00000040]

18 Email from Michael Vandergrift, PCO, to Michael Richards, Manitoba, February 13, 2022, at 9:46 pm. [MAN00000048]

Manitoba has appropriate tools in place to respond, and calling on the federal government to lay out a plan to reduce COVID restrictions.[19]

37. Subsequently, on Monday, February 14, 2022, Premier Stefanson issued the following statement:[20]

> Earlier today, Prime Minister Justin Trudeau convened a first ministers' meeting to consult Canada's premiers on the federal government potentially invoking the federal Emergencies Act in light of protest and blockade action in Ottawa and some international U.S. border crossings.
>
> I had the opportunity to provide a current status report on Manitoba's situation and hear from my colleagues across the country. All premiers are deeply concerned by the situation in Ottawa and the now-resolved blockade on the Ambassador Bridge in Windsor, Ont. However, there is a clear sense and broad consensus the situation in each province and territory is very different.
>
> I am not currently satisfied the Emergencies Act should be applied in Manitoba. Winnipeg's situation is dramatically different from the one in Ottawa. The Emerson border situation is very different than the one faced in Windsor.
>
> In my view, the sweeping effects and signals associated with the never-before-used Emergencies Act are not constructive here in Manitoba, where caution must be taken against overreach and unintended negative consequences. While the situation is very different in Ontario, this ultimate federal legislation should only be considered on a measured and proportional basis, in locations where it is truly needed.
>
> In Manitoba, I have taken and will continue to take the advice of the law enforcement professionals in the RCMP and Winnipeg Police Service. I am being briefed on a daily basis by Manitoba Justice officials, who are in regular and ongoing communication with law enforcement. These agencies remain satisfied that they have all the tools necessary and they have full tactical control over operations.
>
> As a government, we have been clear. We respect democratic, peaceful and lawful protests. But respect for the freedoms and legal rights of others is equally important in our peaceful and democratic

---

19 Government of Manitoba Notes of February 14, 2022 First Ministers' Meeting. [MAN00000053]

20 Government of Manitoba News Release, February 14, 2022. [MAN00000006]

> society. Unlawful action – blockades that disrupt borders and critical infrastructure and impair trade, jobs and our economy, or that unduly infringe the rights of neighbors and communities – cannot be tolerated
>
> All of the protesters have been heard. Our advocacy with the federal government over border and travel measures, and trucking mandates, continues. But it is time for the protests to end and for the rights of all Manitobans to be respected.
>
> Again, I emphasize the importance of following the advice of our specially trained and professional enforcement personnel, who continue to work tirelessly on the situations in Emerson and in Winnipeg. Full tactical control over law operational action must and will remain in their capable hands.

38. Also on Monday, February 14, 2022, Michael Richards, Deputy Cabinet Secretary. Strategic Operations and Deputy Minister of Intergovernmental Affairs, wrote an email to Michael Vandergrift, Deputy Secretary to the Cabinet (Plans), Privy Council Office. Among other points that he made, he noted that there was reasonable confidence that a negotiated resolution of the situation at Emerson was imminent, but that federal musing about implementing the *Emergencies Act* had negatively impacted that momentum, at least initially.[21]

39. It is on February 14, 2022, that the Governor in Council made its proclamation declaring a Public Order Emergency (SOR/2022-20), under Part II of the *Emergencies Act* (Canada).

ii) Tuesday, February 15, 2022

40. On Tuesday, February 15, 2022, Premier Stefanson and Justice Minister Kelvin Goertzen issued the following joint statement:[22]

> We have been guided by the ongoing law enforcement efforts of Manitoba's RCMP throughout the situation at the Emerson border crossing and are encouraged by reports that those efforts seem to be producing a peaceful resolution.

---

21 Email from Michael Richards, Manitoba, to Michael Vandergrift, PCO, February 14, 2022, at 3:18 pm. [MAN00000052]

22 Government of Manitoba News Release, February 15, 2022. [MAN00000007]

> We commend the expert and professional management of the provincial RCMP in respectfully de-escalating this situation without the use of force.
>
> As we have consistently advised the federal government, local RCMP have always maintained that they have had all the tools and resources required to manage this situation and develop tactical options. The sweeping effect and unprecedented use of the federal Emergencies Act was not and is not required in Manitoba.
>
> We also continue to call on the federal government to help ease tensions across our nation by clearly communicating a plan and timetable to relax all border measures for the benefit of all Canadians, including the mandate for truckers, and by collaboratively re-engaging with the U.S. President Joe Biden's administration on these overdue goals.
>
> On behalf of all Manitobans, we thank all law enforcement personnel for their tireless efforts in keeping Manitobans safe.

41. Also on Tuesday, February 15, 2022, Prime Minster Trudeau wrote a letter to Premier Stefanson, confirming the declaration of a Public Order Emergency under the Emergencies Act.[23]

42. In addition, on Tuesday, February 15, 2022, an FPT meeting of Intergovernmental Affairs Deputy Ministers was convened by conference call. The purpose was for federal representatives to inform as to the nature of the two orders that would be made under the *Emergencies Act*. In attendance for Manitoba was Michael Richards, Deputy Cabinet Secretary, Strategic Operations and Deputy Minister of Intergovernmental Affairs. On behalf of Manitoba he raised concerns about the consultation process. He noted that media had been reporting on the invoking of the Act even before the First Ministers' meeting had occurred, and that no advance notice had been given to Premiers that the meeting would be about the *Emergencies Act*. He also raised other points of concern.[24]

---

23 Letter from Prime Minister Trudeau to Premier Stefanson, February 15, 2022. [MAN00000060]

24 Government of Manitoba Notes of February 15, 2022, Intergovernmental Affairs Deputy Ministers' Meeting. [MAN00000061]

43. In the early evening on Tuesday, February 15, 2022, Michael Richards, Deputy Cabinet Secretary, Strategic Operations and Deputy Minister of Intergovernmental Affairs, wrote a further email to Michael Vandergrift, Deputy Secretary to the Cabinet (Plans), Privy Council Office. He noted that earlier that day RCMP had issued a statement that a peaceful resolution had been reached for the situation at the Emerson border crossing.[25]

44. It is on Tuesday, February 15, 2022, that the Governor in Council made the following two regulations:

    a. Emergency Measures Regulation (SOR/2022-21).

    b. Emergency Economic Measures (SOR/2022-22).

iii) Post-proclamation

45. It was in the morning of Wednesday, February 16, 2022, that RCMP held a media scrum, indicating that a resolution had been reached the day before, and anticipating that by Noon that day the remaining demonstrators would begin to move out.[26]

46. It was in the afternoon of Wednesday, February 16, 2022, that the first FPT meeting of heads of Public Security took place, since any discussion about the Emergencies Act had arisen.

47. On Thursday, February 17, 2022, Premier Stefanson wrote a letter to Prime Minister Trudeau, responding to the Prime Minister's letter of February 15, 2022. She raised concerns about the federal course of action, and suggested narrowing the scope of the measures to be proportionate, geographic-specific and targeted.[27]

48. Also on Thursday, February 17, 2022, an FPT meeting of Intergovernmental Affairs Deputy Ministers was convened by conference call. The purpose was for federal

---

25 Email from Michael Richards, Manitoba, to Michael Vandergrift, PCO, February 15, 2022, at 7:37 pm. [MAN00000062]

26 RCMP Speaking Notes – Media Scrum, February 16, 2022. [MAN00000063]

27 Letter from Premier Stefanson to Prime Minister Trudeau, February 17, 2022. [MAN00000072]

representatives to provide a status update on the *Emergencies Act* measures. In attendance for Manitoba was Michael Richards, Deputy Cabinet Secretary, Strategic Operations and Deputy Minister of Intergovernmental Affairs. On behalf of Manitoba he inquired as to whether there were any active ongoing border blockades.[28]

49. On Wednesday, February 23, 2022, WPS delivered warning letters to those protesters who remained at the Legislature **[MAN00000070]**.

50. It is on Wednesday, February 23, 2022, the Governor in Council revoked the declaration of a Public Order Emergency (SOR/2022-26).

August 25, 2022

Denis Guénette, General Counsel
Coral Lang, Crown Counsel

[28] Government of Manitoba Notes of February 17, 2022, Intergovernmental Affairs Deputy Ministers' Meeting. **[MAN00000068]**